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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,625	01/17/2001	Qi Wang	6956CIP	5289

7590 07/18/2005

Occidental Chemical Corporation
Patent Department
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EXAMINER

EGWIM, KELECHI CHIDI

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 07/18/2005

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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062804

DATE MAILED:

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Commissioner for Patents

The reply brief filed 05/10/2004 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

In response to appellant's comments/arguments:

As stated in the Examiner's Answer, the summary is still considered insufficient. Even though appellant's claim language recites "a polymer" in the preamble, it is clear that appellant claims are to a polymer in combination with stabilizers compounds, i.e. a composition containing a polymer, not simply a polymer. "A polymer" is not the same as a polymer compounded with a stabilizer, i.e. a polymer composition.

As stated in the Examiner's Answer regarding the grouping of the claims, 37 CFR § 1.192(c)(7)(1997) provides in pertinent part, that an explanation as to why the claims do not stand or fall together that "[m]erely point[s] out differences in what the claims cover is not an argument as to why the claims are separately patentable."

Regarding the first structure on page 6 and page 8 of the Examiners answer, firstly, the five member rings are only part of aromatic fused rings containing 9 or 13 carbons. The 5-member rings by themselves do not represent aromatic rings, but are parts of fused aromatic ring systems.

Secondly, appellant's own definition "aryl" in the claims, which is defined separately from alkylaryl and arylalkyl, so as to not confuse the aryl rings with substituted aryl rings, contain 6 to 20 carbons. Thus, appellant's own definition of the "aryl" rings are not limited to 6 member rings/systems.


Thirdly, regarding the recitation from The Condensed Chemical Dictionary, this recitation is not intended to be an exclusive definition of "aryl", as is common in condensed dictionaries. The Condensed Chemical Dictionary merely describes the compounds as "characteristic" of "aryl", and does not limit "aryl" to just the compounds they selected. Appellant is referred to the definition for "Azulene" in the same "Condensed Chemical Dictionary 13th Ed.," by Richard J. Lewis (1997), which is an "Aromatic (aryl) hydrocarbon with a 7-carbon ring fused to a 5-carbon ring." Appellant is further referred to Sections 13.1 and 13.10 in "Organic Chemistry 5th Ed.", by Morrison and Boyd (1987), which clearly provides a more inclusive definition of aryl (aromatic) compounds, and page 580 of "Organic Chemistry 5th ed.", by John McMurry (2000), which gives us an example of an 18 carbon aromatic compound (Annulene). In any regard, appellant's own scope for the their "aryl", C6 to C20, is different and much broader than the (mere) examples recited in The Condensed Chemical Dictionary, which only includes C6, C10 and C14 ring examples.

Appellant's arguments are not consistent with the much broader scope of Appellant's claims. One could substitute the 18

carbon structure of Annulene for the 10 carbon ring substituant in the first compound on page 6 of the Examiner's Answer and for each of the 10 carbons ring groups in the final structure on page 8 of the Examiner's Answer and come up with two more structures that are within the scope of Appellant's claims, yet no enabled by the disclosure.

Regarding the five-member heterocyclic ring with the triple bond, as a demonstration of the exceptionally broad scope of appellant's claim, the compound is significantly different from Example 9 (2-butyne-1,4-diol) and Example 10 [1,4-bis(2-hydroxyethoxy)-2-butyne] in the present specifications. Again, Appellant's arguments are not consistent with the much broader scope of Appellant's claims. The Examiner contends that one of ordinary skill in the art would recognize that this compound, the five-member heterocyclic ring with the triple bond, within the scope of appellant's claims, is not enabled and would be unstable. An atom alpha from a triple carbon bond can only be stable at a 180-degree angle, leaving two carbon atoms with bond angles going to zero. [See section 11.2 in "Organic Chemistry 5th Ed.", by Morrison and Boyd (1987)] It is the burden of the Appellant, not the Examiner, to provide evidence of enablement for all that the Appellant claims.

For the above reasons, in addition to the reasons stated in the Examiner's answer, it is submitted that Appellant's claims do not comply with the requirements of 35 U.S.C. 112, first paragraph and it is believed that the rejections should be sustained.


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PRIMARY EXAMINER